

### **Remarks and Arguments**

In the Notice of Non-Compliant Amendment, the Examiner asserts that no marked-up version of the specification, showing additions and/or deletions was submitted with the November 23, 2005 response to Office Action making the amendment non-compliant. In response, Applicants note that no substitute specification was given as a part of the November 23, 2005 Response to Office Action and therefore have removed the heading for "substitute specifications" from this response.

In the Notice of Non-Compliant Amendment, the Examiner asserts that the amendment to the claims in the November 23, 2005 response to Office Action failed to properly mark deletion, where appropriate with a double square bracket and by not terminating on a separate sheet excluding any other part of the amendment making the amendment non-compliant. In response, Applicants have corrected the deficiencies noted by the Examiner.

In light of these corrections, Applicants respectfully request that the Examiner enter and kindly consider the Amendment enclosed herein.

### **Status of Claims**

Claims 64, 68-95, 105-108, 110, and 111 are pending in the application. Claim 110 has been objected to. Claims 64, 68-95, 105-108, 110, and 111 have been finally rejected. Claims 64, 68-95, 105-108, 110 and 111 have been amended.

Claim 70 has been voluntarily amended for clarification only. This amendment does not narrow the scope of the claim, nor is it being made for reasons of patentability.

### **Claim Objections**

In the Office Action, the Examiner objected to claim 110 because of a missing period. In response Applicants have added a period at the end of claim 110. Accordingly, Applicants request withdrawal of the objection.

### **CLAIM REJECTIONS**

#### **35 U.S.C. § 112 Rejections**

In the Office Action, the Examiner rejected claims 64, 68-95, 105-108, 110, and 111 under 35 U.S.C. § 112, first paragraph because they allegedly do not provide enablement for producing long-term cultures of immature dendritic cells utilizing any population of ES cells.

APPLICANT(S): WALDMANN, Herman  
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FILED: May 04, 2001  
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Further, the Examiner admitted that the specification and the Declaration provide an enabling disclosure only for culturing mouse or human ES cells in the presence of IL-3 to produce immature dendritic cells whereas the scope of the subject claims is far broader, encompassing any dendritic cell derived from any ES cell.

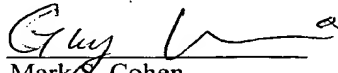
In response, Applicants respectfully assert that the amendments, directing, claim 64 to human and mouse render claims 64, 68-95, 105-108, 110, and 111 proper under 35 USC 112 and request that the rejections be withdrawn.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



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55,376

Dated: May 23, 2006

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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09/849,499	05/04/2001	Herman Waldmann	1324 028	8699
49443	7590	04/24/2006	EXAMINER	
PEARL COHEN ZEDEK, LLP 1500 BROADWAY 12TH FLOOR NEW YORK, NY 10036			ART UNIT	PAPER NUMBER

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

09/849,499

Examiner

Thaia N. Ton

Applicant(s)

WALDMANN ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 17 January 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☒ C. Other See Continuation Sheet.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required
  - ☐ C. Other \_\_\_\_\_
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order
  - ☒ E. Other: See Continuation Sheet
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or  
**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

*thaia n ton*

Continuation Sheet (PTOL-324)

Application No. 09/849,499

Continuation of 1(c) Other: The substitute specification, filed 11/23/05, is non-compliant, because it does not provide a marked up version of the specification, showing changes (including matter being added and deleted from) the specification of record. See also, MPEP §608.01(q) and page 2 of the prior Office action, mailed 8/23/05.

Continuation of 4(e) Other: The claim listing shall commence on a separate sheet of the amendment document, and shall not contain any other part of the amendment. See 37 CFR 1.121(c)(1). The last page of the claims includes remarks. Furthermore, various claim amendments contain single brackets to show deleted text. This is not compliant because 37 CFR 1.121(c)(2) states that double brackets must be used in order to show deleted text. See, for example, claims 95 and 110.